

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 JEFFREY BRAY,

11 Plaintiff,

12 v.

13 NARA PACIFIC ALASKA
14 REGIONAL OFFICE,

15 Defendant.
16

Case No. C11-994-RSM-JPD

REPORT AND RECOMMENDATION

17 I. INTRODUCTION AND SUMMARY CONCLUSION

18 Plaintiff, proceeding *pro se*, has filed a proposed complaint and an application to
19 proceed *in forma pauperis* (“IFP”) in the above-entitled civil action against defendant for
20 allegedly switching “[his] [identification] to steal native Alaskan residential property benefits.”
21 Dkt. 1, Att. 1. After careful consideration of plaintiff’s proposed complaint, plaintiff’s IFP
22 application, the governing law, and the balance of the record, the Court recommends that
23 plaintiff’s proposed complaint, Dkt. 1, Att. 1, be DISMISSED without prejudice for failure to
24 state a claim upon which relief may be granted, and his IFP application, Dkt. 1, be DENIED as
25 moot. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1).
26

1 II. BACKGROUND

2 Although plaintiff's proposed complaint filed on June 15, 2011 is largely
3 undecipherable, plaintiff appears to be arguing that defendant discriminated against him by
4 switching his identification, thereby depriving him of his residential property benefits and
5 infringing on his civil rights. Dkt. 1, Att. 1. For example, plaintiff provides a copy of a
6 completed online complaint form plaintiff submitted to the Office of the Inspector General at
7 the United States Department of Justice, which alleges that defendant's employees "did not
8 want oic.wa.gov to know that [plaintiff] was in the building, because the computer system
9 would [have] found out that the people inside the building switched...my [identification] to
10 steal native [A]laskan residential property benefits." *Id.* Plaintiff describes the relief he seeks
11 from the Court as "100% everything." *Id.*, Att. 2.

12 III. DISCUSSION

13 A plaintiff must "plead a short and plain statement of the claim showing that the
14 pleader is entitled to relief." Fed. R. Civ. P. ("FRCP") 8(a)(2). This statement must be
15 sufficient to "give the defendant fair notice of what the plaintiff's claim is and the grounds
16 upon which it rests." *Conley v. Gibson*, 355 U.S. 41, 47 (1957). The factual allegations of a
17 complaint must be "enough to raise a right to relief above the speculative level." *Bell Atlantic*
18 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A complaint may be dismissed as a matter of
19 law if it lacks a cognizable legal theory or states insufficient facts under a cognizable legal
20 theory. *Robertson v. Dean Witter Reynolds, Inc.*, 749 F.2d 530, 534 (9th Cir. 1984). Pursuant
21 to 28 U.S.C. § 1915(e), the district court must dismiss the case "at any time" it determines the
22 complaint is frivolous or fails to state a claim on which relief may be granted. 28 U.S.C. §
23 1915(e)(2). Section 1915(e) applies to all IFP proceedings, not just those filed by prisoners.
24 *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

25 Here, plaintiff's proposed complaint fails to allege sufficient facts to place the
26 defendant on notice of the nature of plaintiff's claims or otherwise provide any basis for

1 jurisdiction in this Court. *See* FRCP 8(a). Specifically, it is unclear what kind of
2 “identification” plaintiff alleges the defendant switched. Plaintiff also fails to explain how any
3 of defendant’s employees directly participated in causing any harm of constitutional or
4 statutory dimension. Although plaintiff has indicated in his application to proceed IFP that he
5 “want[s] to own [his] property district,” it is unclear whether he has any entitlement or claim to
6 any residential property benefits, as those benefits are not identified in plaintiff’s complaint.
7 Dkt. 1. Finally, plaintiff’s request for “100% everything” is unspecific and unclear. Dkt. 1,
8 Att. 2. Accordingly, plaintiff has failed to state a claim against defendant, and his proposed
9 complaint must be dismissed as frivolous.

10 The Court advises plaintiff of his responsibility to research the facts and law before
11 filing a complaint in order to determine whether his claim for relief is frivolous. If plaintiff
12 files a frivolous action, he may be sanctioned. *See* FRCP 11. The Court would likely impose a
13 sanction of dismissal on any frivolous complaint. If plaintiff files numerous frivolous or
14 malicious complaints, the Court may bar him from proceeding in this court. *See DeLong v.*
15 *Hennessey*, 912 F.2d 1144, 1146 (9th Cir. 1990) (discussing bar order requirements).

16 IV. CONCLUSION

17 For all of the foregoing reasons, the Court recommends that plaintiff’s proposed
18 complaint, Dkt. 1, Att. 1, be DISMISSED without prejudice, and that his IFP application, Dkt.
19 1, be DENIED as moot. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1). A proposed order
20 accompanies this Report and Recommendation.

21 DATED this 27th day of June, 2011.

22 
23 _____
24 JAMES P. DONOHUE
25 United States Magistrate Judge
26